

Stafford County
BOARD OF ZONING APPEALS

MINUTES FEBRUARY 28, 2006

The regular meeting of the Stafford County Board of Zoning Appeals on Tuesday, February 28, 2006 was called to order with the determination of a quorum at 7:00 p.m. by Chairman Larry Ingalls in the Board of Supervisor's Chambers in the Stafford County Government Center. Mr. Ingalls introduced the Board members and staff and explained to the public present, the purpose, function and process of the Board of Zoning Appeals. He asked the members of the public who planned to speak at this meeting to please stand and raise their right hand, swearing to tell the truth.

Mr. Ingalls said the By-laws of this Board state that the applicant is allowed up to ten minutes to state their case, the other speakers are allowed up to three minutes to testify, and the applicant is allowed up to three minutes for rebuttal.

Members Present: Larry Ingalls, Nick Kopchinsky, Julie Rutledge, John Overbey, Cecelia Kirkman, and Angelo Amador (7:20 p.m. arrived)

Members Absent: Steven Beauch

Staff Present: Rachel Hudson, Deputy Zoning Administrator
Wanda Doherty, Recording Secretary

Declarations of Disqualification's: Ms. Rutledge – SE05-03/2501662
Mr. Ingalls - SE05-05/2600090
Ms. Kirkman - VO5-20/2600091

AGENDA CHANGES: SE05-4/2501666 – Ms. Hudson stated that applicant requested postponement.

SE05-4/2501666 – Jack Weyant, P.E., Richmond American Homes, Inc. – Requests a Special Exception per Stafford County Code, Section 28-57 (h)(3), "Permitted Uses in the Floodway District", to allow the construction of a proposed road on Assessor's Parcels 29-53. The property is Zoned A-1, Agricultural, A-2, Rural Residential, and PD-2 Planned Development, located in the proposed Embrey Mill subdivision.

Mr. Ingalls asked if there were other changes to the Agenda.

Mr. Kopchinsky made the motion to move up Mr. Burkhalter's case. Mr. Overbey seconded the motion. The motion was approved 5-0

Vote:

Motion carried 5-0

Mr. Ingalls - Yes
Mr. Kopchinsky - Yes
Mr. Overbey - Yes
Ms. Rutledge- Yes
Ms. Kirkman – Yes

Ms. Hudson reviewed the following case for the Board.

V05-19/2501667 – Thomas Burkhalter - Requests Variances from Stafford County Code, Section 28-35, Table 3.1, "District Uses & Standards, A-2, Rural Residential", front yard requirement and Section 28-273, "Nonconforming Structures", to allow an addition to a non-conforming single family dwelling on Assessor's Parcel 45-278. The property is zoned A-2, Rural Residential, and is located at 134 Mountain View

Mr. Burkhalter stated he would like to postpone his case until the Board of Supervisors reviews an Ordinance that pertains to his case.

Mr. Overbey made the motion to approve Mr. Burkhalter's request for postponement. Mr. Kopchinsky seconded the motion. The motion was approved 5-0.

Vote:

Motion carried 5-0

Mr. Ingalls - Yes
Mr. Kopchinsky - Yes
Mr. Overbey - Yes
Ms. Rutledge- Yes
Ms. Kirkman – Yes

PUBLIC HEARINGS:

Ms. Hudson reviewed the following case for the Board.

SE05-03/2501662 – William & Jo Anne Cannon – Requests a Special Exception per Stafford County Code, Section 28-35, Table 3.1, "District Uses and Standards, A-1, Agricultural", to amend existing Rural Home Business to allow indoor weddings and small business meetings on Assessor's Parcel 18V-3. The property is zoned A-1, Agricultural, and is located at 228 Rock Hill Church Road.

Mr. Cannon stated the reasons for his request and how he plans to accommodate his guests. He stated his solutions for concerns with traffic, waste disposal, parking and his intention to keep business in Stafford. Mr. Cannon explained how he met with engineers to come up with a 15,000-gallon tank septic system with a slow release pump.

Ms. Kirkman stated concerns about waste disposal and her concerns about parking on the septic tanks.

Mr. Cannon stated there would be no parking near the septic system and he was assured by engineers the system is more than adequate for the uses of the property.

Ms. Kirkman asked if food would be prepared on site and Mr. Cannon stated no.

Mr. Overbey asked how many guests did he expect for each wedding.

Mr. Cannon stated the average would be around a hundred but had the capacity for a hundred ninety-seven.

Ms. Kirkman wanted to know if they had a back up generator and Mr. Cannon stated they did.

Mr. Ingalls opened the public hearing.

Proponents:

Richard Silvrants of VanHorn Lane stated he was in support of Mr. Cannon's proposal.

Opponents: None

Mr. Ingalls closed the public hearing.

Mr. Cannon presented letters from neighbors in support of his request for the record.

Mr. Ingalls closed the Public Hearing.

Mr. Overbey made the motion to approve. Mr. Kopchinsky seconded the motion.

Mr. Overbey stated he made the motion because of all the applicant has done.

Mr. Kopchinsky stated he seconded the motion because it meets the criteria but would like to include the prior conditions to the property.

Ms. Kirkman stated she still had concerns about the septic system and wanted an explanation of the back up for the system.

The Board discussed the septic system, back up to system and capacity of the system.

Mr. Ingalls stated the Board could add a condition of 130 maximum guests to be on the property at one time plus workers.

Mr. Overbey changed the motion to include maximum number of guests to be no more than 130.

Mr. Kopchinsky seconded the motion to include the original five conditions and the additional condition concerning maximum guests.

Vote:

Motion carried 5-0-(1 Ms. Rutledge Abstained)

Mr. Ingalls - Yes

Mr. Kopchinsky - Yes

Mr. Overbey - Yes

Mr. Amador – Yes

Ms. Kirkman – Yes

Ms. Rutledge – Abstained

Mr. Amador stated he had to leave at 8:15 p.m. so if the Board would like to move a case up that they would like him to hear and vote on.

Mr. Overbey made the motion to move the New Life Community Church of Stafford to be the next case to be heard.

Ms. Kirkman seconded.

Vote:

Motion carried 5-0

Mr. Kopchinsky - Yes

Mr. Overbey - Yes

Mr. Amador – Yes

Ms. Kirkman – Yes

Ms. Rutledge - Yes

Ms. Hudson reviewed the following case for the Board.

SE05-05/2600090 - NEW LIFE COMMUNITY CHURCH OF STAFFORD - Requests a Special Exception per Stafford County Code, Section 28-35, Table 3.1, "District Uses & Standards, A-1 Agricultural", to allow a reduction of the open space requirement on Assessor's Parcel 30-137C. The property is zoned A-1, Agricultural, located at 1449 Courthouse Road.

Dennis Rupert (Pastor) applicant for New Life Community Church of Stafford stated they have been part of the community for 23 years. He stated the need to expand with no funds to purchase additional land.

Mr. Depasquale representing the church explained the attachments included in the request. He stated the only thing they were not sure of was Stormwater Management.

Ms. Rutledge asked Mr. Rupert if they have tried to purchase additional land from surrounding landowners.

Mr. Rupert stated they did try to purchase adjacent property but the neighbors would not sell.

Ms. Kirkman asked if all the parking was paved and what was the current ratio of open space around the property.

Mr. Depasquale stated the current ration we do not have that information and we are not sure if you were provided that by staff. He stated we do know that the net would be 57.2% after this.

Ms. Kirkman stated so you do not know now but do you know the current open space ratio's of the adjacent property.

Mr. Depasquale stated no, they did not examine any surrounding property and their open space ratio.

Ms. Kirkman stated, just to make sure, because sometimes there is a technical distinction but we often use them interchangeably, the impervious surface area under the proposed plan would be what.

Mr. Depasquale stated the impervious surface area to include rooftop and parking and any other hard surface is what is part of the 42.8%.

Ms. Kirkman asked what is the 42.8%?

Mr. Depasquale stated that is the lot coverage that would be developed and the net opened is the difference to a 100% at 57.2%.

Ms. Rutledge stated that is the information on the plan and asked what the distance is from the side to the worship addition you are proposing. She stated you have trees lined there but you have no definition of the building distance or property line.

Mr. Depasquale stated the best reference would be the scale at the bottom left of the drawing and it is a graphic scale. He stated they would be in conformance with side yard setbacks.

Mr. Ingalls opened the public hearing.

Proponents: None

Opponents: None

Mr. Ingalls closed the public hearing.

Mr. Depasquale stated more than 5% would more than cover with a net open space of 47-52%.

Ms. Hudson stated stormwater ponds are considered part of the open space.

Ms. Rutledge made the motion to approve. Mr. Overbey seconded the motion.

Ms. Rutledge stated she feels the Special Exception is justified.

Mr. Overbey stated the request meets all the requirements.

Mr. Amador stated he was in favor of the request and would like to state for the record that the vote on the Special Exception doesn't change anything in regards to setbacks.

Ms. Kirkman stated she was opposed because she believes the Board of Supervisors erred in making Special Exceptions to the open ratio a possibility because she believes the definition of the character of an area is in part defined by its open space ration and by defacto when you change the open space ratio in an agricultural zone you are changing the character of the area. Additionally, this particular property sits on the aquifer recharge area and that any additional increase in the impervious area affects the water supply and therefore it dose have an impact on neighboring properties so I am going to oppose the motion.

Vote:

Motion carried 4-1-(1- Mr. Ingalls Abstained)

Mr. Kopchinsky – Yes

Ms. Rutledge – Yes

Mr. Amador – Yes

Mr. Overbey – Yes

Ms. Kirkman – No

Mr. Ingalls - Abstained

Mr. Kopchinsky called a 7-8 minute recess at 8:07 p.m.

Mr. Amador left before the meeting reconvened.

The meeting reconvened at 8:20 p.m.

Ms. Hudson reviewed the following case for the Board.

SE05-06/2600089 - SAMUEL C. SMART - Requests a Special Exception per Stafford County Code, Section 28-35, Table 3.1, "District Uses & Standards", to allow a reduction of the open space requirement on Assessor's Parcel 54F-12-1B. The property is zoned B-3, office, and is located at 230 Butler Road.

Ms. Kirkman asked Ms. Hudson when the prior zoning was done as a whole and they separated the parcel and is it still zoned.

Ms. Hudson stated any rezoning stays the same no matter if the property is separated.

Mr. Bagby representing the applicant stated Dr. Smart has done everything required for the Special Exception request. He stated lack of open space was due to dedication of property to Virginia Department of Transportation. He stated Dr. Smart has purchased additional property and tried to purchase more but can't. He stated the property has not changed and it is a nice office park.

Ms. Kirkman stated if the property was not divided they would meet the open space requirements.

Mr. Bagby stated two individuals owned the property and they wanted the property divided.

Ms. Rutledge asked if the property had different owners.

Mr. Bagby stated they are still the same owners.

Ms. Rutledge stated she noticed they share parking.

Mr. Overbey stated had the Virginia Department of Transportation not required the land we would not be here tonight.

There was a brief discussion regarding the exhibits and open space on both parcels between the Board and Mr. Bagby.

Ms. Kirkman stated she had a question of staff and stated to Ms. Hudson that she had never seen a plan like the one in this case.

Ms. Hudson stated she had seen plans like this before.

Mr. Ingalls stated the project east of this one has a plan like this one, as do other office pad sites, and shopping centers.

The Board expressed concerns with the percentage of open space and if the applicant would be coming back for more.

Mr. Bagby stated he feels this request is reliable and the applicant would not be back.

Mr. Ingalls opened the public hearing.

Proponents: None

Opponents: None

Mr. Ingalls closed the public hearing.

Mr. Kopchinsky made the motion to reduce the open space to the requested 23%. Ms. Rutledge seconded.

Mr. Kopchinsky stated he made the motion not because of the concerns about calculations, but believes the elements of a Special Exception are met. He stated if the property was rezoned they would still be here with a request.

Ms. Rutledge stated she seconded for the same reasons and also because of Virginia Department of Transportation taking his property.

Vote:

Motion carried 4-1

Mr. Kopchinsky – Yes

Ms. Rutledge – Yes

Mr. Overbey – Yes

Mr. Ingalls - Yes

Ms. Kirkman – No

Ms. Hudson reviewed the following case for the Board.

VO5-20/2600091 - KEVIN SULLIVAN - Request a Variance of Stafford County Code, Section 28-35, Table 3.1, "District Uses & Standards, M-1, Light Industrial", and Section 28-273, "Nonconforming Structures", front and side yard requirement, to allow a carport addition to an existing nonconforming structure on Assessor's Parcel 54E-3-8. The property is Zoned M-1, Light Industrial, located at 16 Pine Road.

Mr. Kevin Sullivan owner and operator of Resurrection Builders for the last ten years and has been leasing a property for seven years. He stated he has tried to find property for his business and this has been his best option. He stated the property is already zoned M-1 which is good for his business. He stated Zoning and Planning requirements wouldn't allow him to put up an industrial building on the property so he is requesting to add a large carport. He stated he plans to turn the mobile home on the site into his business office and he would enhance the property.

Mr. Overbey and Ms. Rutledge discussed the differences with the carport being attached or not attached.

Mr. Sullivan stated to maximize the carport it should not be attached.

Mr. Ingalls asked Mr. Sullivan if he had considered moving the mobile home or considered other options.

Mr. Sullivan stated he did not come prepared to present other options to the Board.

The Board discussed other options for the applicant and offered him the option to postpone and reconsider his options.

Mr. Sullivan agreed to the postponement.

Mr. Overbey made the motion to postpone the case for 60 days to the April 25, 2006 hearing.
Ms. Rutledge seconded the motion.

Vote:

Motion carried 4-0-(1-Ms. Kirkman Abstained)

Mr. Kopchinsky – Yes
Ms. Rutledge – Yes
Mr. Overbey – Yes
Mr. Ingalls – Yes
Ms. Kirkman - Abstained

UNFINISHED BUSINESS

None

REPORT BY DEPUTY ZONING ADMINISTRATOR

Ms. Hudson briefly discussed the Crucible case and handouts for tonight's meeting.

Ms. Kirkman requested handouts be sent to the Board if there is time so they can review before the meeting.

Ms. Hudson stated that could be done and if documents are not too large they could be faxed if the members provide a fax number.

Adoption of Minutes – October 25, 2005

Mr. Kopchinsky made the motion to approve the October 25, 2005 minutes. Ms. Rutledge seconded the motion.

Vote:

Motion carried 4-0

Mr. Kopchinsky – Yes
Ms. Rutledge – Yes
Ms. Kirkman - Yes
Mr. Ingalls- Yes

The Board could not vote on the January minutes and the draft September 2005 minutes are to be reviewed for comments.

Mr. Kopchinsky handed out the BZA draft annual report and asked the members to please review and comment.

The Board briefly discussed pursuing the appointment of two alternates. It was discussed that it would require an Ordinance amendment to be approved by the Board of Supervisors

The Board discussed the need to still have election of officers.

Ms. Rutledge made the motion to have elections at the March 28,2006 meeting. Mr. Overbey seconded the motion.

Vote:

Motion carried 5-0

Mr. Kopchinsky – Yes

Ms. Rutledge – Yes

Mr. Overbey – Yes

Ms. Kirkland – Yes

Mr. Ingalls - Yes

Mr. Ingalls asked the Board to notify him if they cannot attend a meeting or will be late.

Mr. Overbey stated that is why he strongly suggests the need for alternates because of the embarrassment last month when they did not have a Quorum and had to send applicants away.

Ms. Kirkman stated she would like to have more statistics included in the Annual report.

Adjournment

Motion:

Mr. Kopchinsky made the motion to adjourn.

Seconded by Mr. Overbey.

Vote:

Motion approved 5-0.

Mr. Kopchinsky – Yes

Ms. Rutledge – Yes

Mr. Overbey – Yes

Mr. Ingalls – Yes

Ms. Kirkman - Yes

Meeting adjourned 9:50 P.M.

WLD

Approved: _____ Date: _____
Rachel T. Hudson, Deputy Zoning Administrator